
**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CHRISTINA BOYLES,)	Case No.
)	
Plaintiff,)	
)	
v.)	Removed from State Court of
)	Cherokee County, Civil Action
THE KROGER CO., ABC)	File No. 23SCE0423
CORPORATIONS 1–3, and JOHN)	
DOES 1–3,)	JURY TRIAL DEMANDED
)	
Defendants.)	
)	

DEFENDANT THE KROGER CO.’S NOTICE OF REMOVAL

COMES NOW **THE KROGER CO.**, Defendant in the above-styled civil action, by and through undersigned counsel, and files this, its Notice of Removal, showing the Court as follows:

1.

This action was filed in the State Court of Cherokee County, Georgia, said county being part of the Northern District of Georgia. See N.D.G.A. Local Rule 3.1(A), LR App. A, I. This, the Atlanta Division of this Court, is the proper Division for this removal as further set forth below.

2.

The action is a civil action for personal bodily injuries and medical expenses, and the United States District Court for the Northern District of Georgia has jurisdiction by reason of the diversity of citizenship of the parties.

3.

The matter in dispute exceeds \$75,000.00, the statutory amount in controversy, exclusive of interest and costs, as Plaintiff's Complaint alleges that Plaintiff's medical expenses, incurred as a result of the alleged tortious conduct, exceed \$100,000. See Pl.'s Compl. ¶ 17, included in Exhibit A, attached hereto.

4.

- (a) At the time of the commencement of this action in the Superior Court of Cobb County, upon information and belief, and according to Plaintiff's Complaint, Plaintiff Christina Boyles was and is now a citizen of Georgia.
- (b) Defendant Kroger at the time this action was commenced was and still is now a corporation, incorporated and existing under and by virtue of the laws of Ohio having its principal place of business in Ohio, and thus a citizen of Ohio.

5.

A true and correct copy of all process, pleadings, and orders served upon Defendant in this action are attached hereto as Exhibit A.

6.

The instant Notice of Removal is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(b) within thirty days after the receipt by Defendant's counsel of Plaintiff's Summons and Complaint, attached as part of Exhibit A.

7.

Furthermore, the instant Notice of Removal is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(c)(1) within one year of the commencement of the action.

8.

Accordingly, this action, over which the United States District Court for the Northern District of Georgia has original jurisdiction under 28 U.S.C. § 1332, is removable to the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1441.

9.

Venue is proper in the Atlanta Division of the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1441, 28 U.S.C. § 1391, and N.D.G.A. Local Rule 3.1(B)(1)(a). Specifically, Plaintiff's Complaint was filed in the Superior Court of Cobb County, which is part of the Atlanta Division. See N.D.G.A. Local Rule 3.1(A), LR App. A, I.

10.

As required by 28 U.S.C. § 1446 (d), Defendant shall give written notice hereof to all adverse parties and shall file a copy of this Notice of Removal with the Clerk of the State Court of Cherokee County.

WHEREFORE, Defendant The Kroger Co. requests that this action proceed in this Court as an action properly removed to it.

Respectfully submitted, this 19th day of May, 2023.

**GRAY, RUST, ST. AMAND,
MOFFETT & BRIESKE, L.L.P.**
950 East Paces Ferry Road, N.E.
Suite 1700 – Salesforce Tower Atlanta
Atlanta, Georgia 30326
Telephone: (404) 870-7386
Facsimile: (404) 870-1033

/s/ Sarah Raquel L. Lisle
Matthew G. Moffett
Georgia State Bar No.: 515323
Sarah Raquel L. Lisle
Georgia State Bar No.: 412593
Jeremy A. Freiman
Georgia State Bar No.: 786086
Attorneys for The Kroger Co.

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically submitted the foregoing **DEFENDANT THE KROGER CO.'S NOTICE OF REMOVAL** to the Clerk of Court using the CM/ECF system which will automatically send electronic mail notification of such filing to counsel of record who are CM/ECF participants and mailed by United States Postal Service, first-class, postage prepaid, a paper copy of the same document to counsel of record who are non-CM/ECF participants. Counsel of record is as follows:

Stephen G. Carlson, Esq.
Randal E. Fry, Esq.
THE FRY LAW FIRM
1718 Peachtree Street, NW
Suite 990
Atlanta, Georgia 30306
stephen@frygoehring.com
randy@frygoehring.com
Attorneys for Plaintiff

This is to further certify that the foregoing complies with the font and point selections approved by the Court in Local Rule 5.1. It is prepared in Times New Roman 14-point font.

[SIGNATURE ON FOLLOWING PAGE.]

Respectfully submitted, this 19th day of May, 2023.

**GRAY, RUST, ST. AMAND,
MOFFETT & BRIESKE, L.L.P.**
950 East Paces Ferry Road, N.E.
Suite 1700 – Salesforce Tower Atlanta
Atlanta, Georgia 30326
Telephone: (404) 870-7386
Facsimile: (404) 870-1033

/s/ Sarah Raquel L. Lisle
Matthew G. Moffett
Georgia State Bar No.: 515323
Sarah Raquel L. Lisle
Georgia State Bar No.: 412593
Jeremy A. Freiman
Georgia State Bar No.: 786086
Attorneys for The Kroger Co.